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Salt Lake City, UT 84114  
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## BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

UNITED DENTAL CARE OF UTAH, INC.  
10 East South Temple, Suite 900  
Salt Lake City, UT 84133  
Utah Org. Id. No. 1890

**STIPULATION  
&  
ORDER**

Docket No. 2005-040 EX

Enf. Case No. 1635

### STIPULATION

1. Respondent, United Dental Care of Utah, Inc., is a limited health plan authorized to do business in the State of Utah, Utah Organization Identification No. 1890.
2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
  - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
  - b. Respondent admits the Findings of Fact and Conclusions made therefrom;
  - c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 5<sup>th</sup> day of May, 2005.

Michael Payroll Miller

UNITED DENTAL CARE OF UTAH, INC.

~~Brian Loomis, Assistant Counsel~~

Mike Miller, President

M. Gale Lemmon

UTAH INSURANCE DEPARTMENT

M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

### **FINDINGS OF FACT**

1. The Utah Insurance Department ("the Department") conducted a financial examination of the Respondent, United Dental Care of Utah, Inc. ("the Respondent") as of September 30, 2000, and filed the report of said examination on August 22, 2001.

2. The examination found, *inter alia*, that the Respondent was not in compliance with Utah Code Annotated § 31A-5-407(2), which required that a majority of the directors of the Respondent be residents of the State of Utah.

3. The Respondent failed to take corrective action regarding the make-up of its board of directors, and in a second financial examination conducted by the Department of the Respondent as of December, 31, 2003, and filed on April 15, 2005, found, *inter alia*, that the Respondent was not in compliance with Utah Code Annotated § 31A-5-407(2), in that it still did not have a majority of its directors that were residents of the State of Utah.

4. In a letter dated [March] 1, 2005, addressed to Steve Fry, Chief Examiner for the Utah Insurance Department, the Respondent submitted its first request that, pursuant to Utah Code Annotated § 31A-5-407(2), "the board of directors residential requirement for [the Respondent] be waived."

6. Based upon the request and representations of the Respondent, the commissioner is satisfied that the Respondent's financial condition, management and other circumstances give assurance that the interest of insureds and the public will not be endangered by the majority of the board being nonresidents. This determination is subject to review by the commissioner at any time.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

**CONCLUSIONS OF LAW**

1. The Respondent violated Utah Code Annotated § 31A-5-407(2), in failing to appoint a majority of its board of directors that were residents of the State of Utah following the Report of Examination dated August 22, 2001.

2. Pursuant to Utah Code Annotated § 31A-5-407(2), and based upon the determination of the commissioner, the Respondent should be granted a waiver from the requirement that a majority of its board of directors be residents of the State of Utah, subject to further review and determination that the grant of waiver is no longer in the interests of insureds and the public.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

**ORDER**

IT IS HEREBY ORDERED:

1. Respondent is assessed an administrative forfeiture in the amount of \$2,000.00, to be paid within 30 days of the date of this Order.

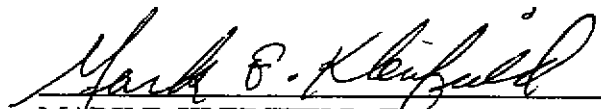
2. The Respondent is hereby granted a waiver from the requirement under Utah Code Annotated § 31A-5-407(2) that a majority of its board of directors be residents of the State of Utah, effective January 1, 2004. Said waiver is subject to review to determine whether the board of directors has given adequate focus on compliance with the Utah Insurance Code and Rules and that the waiver remains in the interests of insureds and the public.

**NOTIFICATION**

Respondent is hereby notified that failure to abide by the terms of this Order may subject it to further penalties, including additional forfeitures of up to \$5,000.00 per violation, and the filing of an action to enforce this Order in the District Court which may impose penalties of up to \$10,000.00 per day for continued violation.

DATED this 10<sup>th</sup> day of May, 2005.

D. KENT MICHIE  
INSURANCE COMMISSIONER

  
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MARK E. KLEINFELD, Esq.

Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800

**Invoice****Due Date** 05-15-2005**Amount Due**

\$2,000.00

**Invoice ID** 243905**Payor ID** 1890**Total Amount Remitted**\$ 2000<sup>00</sup>

Make Checks Payable To:

**Utah Insurance Department****3110 State Office Building****Salt Lake City, UT 84114-6901**

UNITED DENTAL CARE OF UTAH, INC  
FORTIS BENEFITS INSURANCE COMPANY  
P O BOX 419052  
KANSAS CITY MO 64141-6052

**Invoice ID** 243905**Payor ID** 1890**Invoice Print Date** 05-10-2005**Items:**

05-10-2005 Monetary Penalty Company

2,000.00

**Amount Due..... \$2,000.00**

CERTIFICATE OF MAILING

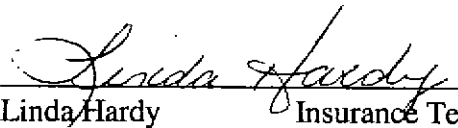
I do hereby certify that on this date I mailed, by regular mail, postage prepaid, a true and correct copy of the attached:

**STIPULATION  
&  
ORDER**

To the following:

**UNITED DENTAL CARE OF UTAH, INC.  
10 East South Temple, Suite 900  
Salt Lake City, UT 84133**

DATED this 11<sup>th</sup> day of May, 2005

  
\_\_\_\_\_  
Linda Hardy Insurance Technician  
Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901  
(801) 538-3813